S.B.CIVIL MISC. APPEAL NO.438/1994
(RSRTC Vs. Smt.Phephi and others)

Date of order : 13.07.2006

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.B.S.Bhati for the appellants

The owners of the vehicle involved in the accident of Rajasthan State Road Transport Corporation ('the Corporation' herein) have come up in appeal seeking to assail the quantum of compensation of Rs.1,50,000/- allowed by the learned Motor Accidents Claims Tribunal, Sojat in its award dated 10.02.1994 to the mother and daughter of the deceased Devi Singh, aged 30 years.

Brief facts are that an accident occurred on 08.10.1992 at 8.00 p.m. when the deceased Devi Singh and certain other persons were walking on foot at the road from Jhala Ki Chowki to Jetpur and about 200 yards from the circle, non-applicant No.1 brought driving appellant's bus bearing registration No.RSB 4025 and hit the pedestrians causing death of Devi Singh on the spot and another injured Banney Singh expired in hospital. The Tribunal has held the accident to have occurred for rash and negligent driving of the bus by the driver of the Corporation and such finding has not been put

to contention. The impugned award has been challenged only on quantification of compensation.

The learned Judge of the Tribunal has found the deceased to be 30 years of age and the claimant No.1 Smt.Phephi mother of the deceased being 60 years of age and claimant No.2 Kumari Meera daughter of the deceased being 10 years of age. It has been found that deceased was earning about Rs.40/- per day as a labourer and the learned Judge has taken his monthly income at Rs.1200/- and deducting 1/3rd towards personal expenditure has taken monthly contribution to the claimants at Rs.800/- per month and then applying the multiplier of 35 in relation to expected earning period of deceased has taken a figure of Rs.3,36,000/-; but then has observed that mother of the deceased would have remained dependent on him for five years and the daughter of the deceased would have depended on her husband after marriage. On these considerations, learned Judge considered it appropriate to award Rs.50,000/- to the claimant No.1 (mother) and Rs.1,00,000/- to the claimant No.2 (daughter) and, therefore, the Tribunal has made an award in the sum of Rs.1,50,000/-. The appellants seek to contend that this award is excessive.

Learned counsel Mr.Bhati appearing for the appellants has strenuously contended that the Tribunal has been seriously in error in adopting the multiplier of 35 and taking contribution to the mother for five years and then taking the same income for providing another contribution factor for the daughter and that has resulted in grave injustice and, therefore, the award deserves to be revised by modification of the amount of compensation.

Having heard learned counsel for the appellants and having perused the impugned award, this Court is clearly of opinion that this appeal remains absolutely bereft of substance and rather the appellant-Corporation has not been justified in submitting such frivolous and baseless appeal.

It is true that the Tribunal has taken multiplier of 35 but that has been adopted only for the purpose of calculating the likely contribution of the deceased at Rs.3,36,000/-. The Tribunal has neither awarded this amount nor even half of it to the claimants; and, on the contrary, the Tribunal has strangely adopted meagre figures of Rs.50,000/- for the mother and Rs.1,00,000/- for the daughter without any basis or justification. On proper calculation, looking to the young

age of the daughter of the deceased and the young age of the deceased himself, in the overall circumstances of the case, even if income figure is not disturbed and a lower side multiplier of 17 is provided, this Court is of opinion that pecuniary loss itself stands at Rs.1,63,200/-. This is apart from the fact that the Tribunal has not awarded any amount towards non-pecuniary loss and funeral expenses. The award of the Tribunal is substantially on the lower side and it would have been a fit case for making adequate upward revision in the quantum of award; but neither counsel for the claimants is available nor any cross-objections have been submitted in this appeal and having regard to the overall circumstances of the case, the award is not disturbed by any upward revision.

However, the Corporation cannot be said to be justified in seeking to question the award on such hyper-technical grounds as attempted to be raised in this appeal about income/contribution figure having not been properly bifurcated amongst the claimants and so-called application of higher multiplier. It is apparent that even if the Tribunal was not particular and specific about principles to be applied, yet the Tribunal has ultimately awarded only Rs.1,50,000/- to the mother and daughter of a 30 years old person who died on

being hit on the road by rash and negligent driving of the driver of the Corporation. Such amount remains substantially on the lower side and there is no scope for reduction in this award amount.

The appeal, therefore, fails and is dismissed. This Court is clearly of opinion that present one was a fit case for imposing exemplary costs upon the appellant-Corporation for filing such frivolous appeal but no one having appeared for the claimants, no order is made regarding costs.

(DINESH MAHESHWARI),J.

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